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REMARKS

Claims 1-20 are pending. Claims 1-10 were provisionally elected for prosecution, with traverse, in response to a restriction requirement, and claims 11-20 were withdrawn. Withdrawn claim 11 has been amended to clarify that the spacer comprises a silicon nitride film formed by a dual-frequency PECVD process. No new matter has been added.

During a telephone conversation with the Examiner on September 23, 2005, a provisional election was made with traverse to prosecute the inventions I, specifically claims 1-10, drawn to a method of forming a semiconductor device. Accordingly, the inventions II, claims 11-20, drawn to a semiconductor device (product-by-process), have been withdrawn. The Office Action alleges that the inventions I and II are distinct because the silicon nitride layer can alternately be formed by atomic layer deposition (ALD) instead of dual-frequency PECVD. Applicants respectfully traverse the restriction, noting that claims 1-10 of inventions I recite "depositing a silicon nitride layer by means of a dual-frequency plasma enhanced CVD process" and claims 11-20 of invention II recite "silicon nitride film formed by a dual-frequency PECVD process". Since the formation of the silicon nitride in the inventions I and II as claimed is limited to a dual-frequency PECVD process, restriction is improper. Applicants respectfully request that the restriction requirement be reconsidered and withdrawn.

The Office Action objected to the title of the application as being not descriptive. Accordingly, the title has been amended to be more clearly indicative of the invention to which the claims are directed.

The specification was objected to because of informalities. Accordingly, paragraph [0005] has been amended to correct editorial problems. No new matter has been added.

Claims 1-10 stand rejected under 35 U.S.C. 102(e) as being anticipated by Jung et al.

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("Jung") (U.S. 2005/0170104 A1). Applicants respectfully traverse this rejection based on the following discussion. The Office Action alleges, among other things, that Jung discloses depositing a silicon nitride layer 118 by means of a dual-frequency plasma enhanced CVD process and forming a spacer on said at least one gate stack 110 from said silicon nitride layer 118. Applicants respectfully disagree.

Applicants first note that in the present application, a silicon nitride film 60 is deposited using a dual-frequency plasma-enhanced CVD process (paragraph [0026] and FIG. 3). Subsequently, an anisotropic etch of the silicon nitride layer 60 is performed, resulting in spacers 62 and 63 (paragraph [0028] and FIG. 6).

As understood, Jung discloses a silicon nitride film having a stress tuned to be within the range of about -1.4 GPa (compressive) to about +1.5 GPa (tensile) by depositing the film by PECVD, in a single deposition step (page 2, paragraph [0018]). The film is deposited in a PECVD chamber having multiple (typically dual) power input sources (page 2, paragraph [0019]). However, Jung fails to disclose, teach or suggest forming a spacer from the silicon nitride film deposited by the PECVD process. As understood, Jung discloses a conformal silicon nitride layer 118, which is formed over pre-existing spacers 112, 114, and the stress of the silicon nitride layer 118 can be tuned (see Fig. 1B and paragraphs [0035] and [0036]). Since the spacers 112, 114 already exist, there is no motivation in Jung for forming spacers from the silicon nitride layer 118. Furthermore, the formation of a spacer from the silicon nitride layer 118 would relieve the stress from the silicon nitride film 118 of Jung, which would be inconsistent with forming a spacer according to the present invention.

Thus, Applicants submit that claims 1-10 are patentably distinct from Jung, and respectfully request that these rejections be reconsidered and withdrawn.

In view of the foregoing, Applicants submit that claims 1-10 are patentably distinct from

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the prior art of record and are in condition for allowance.

Applicants' undersigned attorney may be reached by telephone at (845) 894-6919. All correspondence should continue to be directed to the address listed below.

Respectfully submitted,

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